

APPEAL NO. 021923
FILED SEPTEMBER 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 1, 2002. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 17th quarter. The claimant appealed. No response was received from the carrier.

DECISION

The hearing officer's decision is affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). With regard to the good faith and direct result criteria for SIBs entitlement, the hearing officer found that the claimant did not make a good faith effort to seek employment during the qualifying period for the 17th quarter and that the claimant's unemployment during the qualifying period for the 17th quarter was not a direct result of the impairment from her compensable injury. It is clear from the hearing officer's discussion of the evidence that she was not persuaded that the claimant had no ability to work during the qualifying period. Rule 130.101(4) defines the term "qualifying period." The Appeals Panel has held that the first week of the 13-week qualifying period begins on the first day of the qualifying period. Texas Workers' Compensation Commission Appeal No. 011349, decided August 1, 2001. The evidence reflects that the claimant did not look for work every week of the qualifying period, as required by Rule 130.102(e), whether the stipulated qualifying period is used, or the qualifying period the carrier put on the Application for SIBs (TWCC-52) is used. In determining the direct result criterion, the hearing officer could consider the fact that the claimant had returned to work at some point after her compensable injury and worked until she was laid off prior to the qualifying period for the 17th quarter. The hearing officer could also consider the medical reports and videotape of the claimant that were in evidence. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **UNTIED STATES FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PAUL DAVID EDGE
6404 INTERNATIONAL PARKWAY, SUITE 1000
PLANO, TEXAS 75093.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge